

## Message Text

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72 (11)

ACTION OPIC-12

INFO OCT-01 NEA-14 ISO-00 EB-11 AID-20 TRSE-00 OMB-01 L-03

IGA-02 ( ISO ) W

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R 170430Z JUN 74

FM AMEMBASSY KABUL

TO SECSTATE WASHDC 8355

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C O R R E C T E D C O P Y (MRN 3738 VICE 8355)

FOR OPIC

E.O. 11652: N/A

TAGS: EFIN, AF

SUBJECT: OPIC REQUEST FOR TAX EXEMPTION

REFS: KABUL 3115, STATE 106306

1. SUBJECT HAS BEEN RAISED UNOFFICIALLY WITH MINISTER COMMERCE JALLALAR AND MR. MANSOUR, DEPUTY CHIEF OF ECONOMIC OFFICE, MFA. IN ADDITION, THIS HAS BEEN DISCUSSED WITH MICHAEL HAGER, USAID REGIONAL LEGAL ADVISOR, RESIDENT IN ISLAMABAD, AND ROBERT HAGER, INTERNATIONAL LEGAL FELLOW, AFGHAN MINISTRY OF JUSTICE.

2. CONSENSUS REMAINS THAT THERE ARE NO AFGHAN LAWS WHICH WOULD GRANT SUCH SPECIFIC EXEMPTION, AND THAT ACQUIRING THIS WOULD PROBABLY REQUIRE A SPECIFIC NEW DECREE OR A BILATERAL AGREEMENT. JALLALAR AND MANSOUR THINK THIS MAY BE POSSIBLE, BUT ONLY IF THEY HAVE A LOT MORE INFORMATION THAN THEY HAVE AT PRESENT. BOTH HAGERS AGREE THAT THERE HAS NOT BEEN ENOUGH SPECIFIC INFORMATION IN TRAFFIC TO ENABLE THEM TO MAKE A LEGAL JUDGEMENT.

3. ENCLOSED DRAFT NOTE HAS BEEN DISCUSSED IN MISSION. WE ARE SENDING IT TO OPIC FOR YOUR COMMENT AND ADDITIONS. MIKE HAGER  
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SUGGESTS YOU SPECIFY EXACTLY WHAT TAX EXEMPTIONS YOU SEEK. HE

DOES NOT FEEL THAT THIS HAS BEEN SPELLED OUT IN SUFFICIENT  
DETAIL, AT LEAST FOR LEGAL PURPOSES.

4. FINAL TEXT OF NOTE WILL BE DETERMINED IN KABUL AFTER  
RECEIVING YOUR COMMENTS.

5. DRAFT TEXT FOLLOWS; "THE EMBASSY OF THE UNITED STATES  
PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN AFFAIRS  
OF THE REPUBLIC OF AFGHANISTAN AND RESPECTFULLY REQUESTS THAT  
THE MINISTRY PROVIDE CERTAIN ASSURANCES WHICH WILL PERMIT THE  
OPERATIONS IN AFGHANISTAN OF THE OVERSEAS PRIVATE INVESTMENT  
CORPORATION (OPIC), AN AGENCY OF THE UNITED STATES GOVERNMENT.

THE CONGRESS OF THE UNITED STATES HAS DECIDED THAT ELEMENTS OF  
FOREIGN ASSISTANCE INVOLVING THE ENCOURAGEMENT OF PRIVATE  
INDUSTRIAL INVESTMENT IN LESS DEVELOPED COUNTRIES SHOULD BE  
SEPARATE FROM GOVERNMENT-TO-GOVERNMENT FOREIGN ASSISTANCE:  
CONSEQUENTLY, OPIC WAS ESTABLISHED AS A GOVERNMENT CORPORATION  
INDEPENDENT OF THE UNITED STATES AGENCY FOR INTERNATIONAL  
DEVELOPMENT (USAID). THE PRIMARY FUNCTION OF OPIC IS TO INCREASE THE  
AMOUNT OF AMERICAN PRIVATE INVESTMENT IN THE ECONOMIES OF LESS  
DEVELOPED NATIONS. OPIC DOES NOT GENERATE PROJECTS, BUT  
UNDER CERTAIN CONDITIONS OFFERS TWO BENEFITS WHICH CAN MAKE AN  
AMERICAN INVESTMENT IN A LESS DEVELOPED NATION MORE ATTRACTIVE  
THAN AN INVESTMENT IN ANOTHER DEVELOPED NATION. IF A PROJECT  
IS PROPOSED TO OPIC WHICH IS DETERMINED (A) BENEFICIAL TO  
THE DEVELOPMENT OF THE ECONOMY OF THE LESS DEVELOPED NATION,  
AND (B) NOT HARMFUL TO THE UNITED STATES' ECONOMY, OPIC IS ABLE TO  
(1) OFFER LOANS AT COMMERCIAL RATES WHICH MIGHT BE CONSIDERED TOO  
HIGH-RISK BY COMMERCIAL BANKS, AND (2) INSURE THE U.S. INVESTORS  
AGAINST LOSS DUE TO EXPROPRIATION AND/OR CONVERTIBILITY RISK. THESE  
TWO BENEFITS CAN INFLUENCE POSITIVELY AN AMERICAN INVESTOR'S  
DECISION TO GO INTO A NEW AND STRANGE MARKET.

RECENTLY, THE CONGRESS OF THE UNITED STATES HAS REEMPHASIZED  
ITS DESIRE TO HAVE OPIC CONCENTRATE ITS EFFORTS ON THOSE NATIONS  
WHICH ARE IN MOST NEED OF DEVELOPMENT CAPITAL. OPIC HAS  
INDICATED ITS DESIRE TO EXPAND ITS OPERATION INTO AFGHANISTAN.  
IN AFGHANISTAN, OPIC'S ROLE WOULD BE TO PROVIDE LOANS AND  
INSURANCE TO PRIVATE JOINT VENTURES BETWEEN AMERICAN INVESTORS  
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AND AFGHAN INVESTORS. ALL GOVERNMENT-TO-GOVERNMENT ASSISTANCE  
WILL CONTINUE TO BE A FUNCTION OF USAID, EXCLUSIVELY. OPIC  
DOES NOT ENVISAGE, AT THIS TIME, HAVING AN OFFICE IN AFGHANISTAN.  
ITS WORK CAN IN MOST CASES BE CARRIED OUT THROUGH TEMPORARY  
VISITS BY OPIC LOAN AND LEGAL OFFICERS. AS AN AGENCY OF THE  
UNITED STATES GOVERNMENT, ITS OPERATIONS IN AFGHANISTAN WILL  
FALL UNDER THE OVERALL AUTHORITY OF THE AMBASSADOR OF THE  
UNITED STATES IN KABUL.

AS AN AGENCY OF THE UNITED STATES GOVERNMENT, OPIC IS ENTITLED TO THE SAME SOVEREIGN IMMUNITY AS THE AMERICAN EMBASSY, USAID OR ANY OTHER FOREIGN GOVERNMENTAL ORGANIZATION. SINCE ITS LOAN FUNDS ARE CONGRESSIONALLY APPROPRIATED MONEY, THESE DIRECT INVESTMENT (DIF) LOANS ARE ENTITLED TO THE SAME EXEMPTION FROM AFGHAN TAXES AS USAID LOANS AND OTHER EMBASSY/USAID FINANCIAL PROGRAMS. THESE TAXES INCLUDE, BUT ARE NOT LIMITED TO, INCOME, PROPERTY AND STAMP TAXES OF ALL KINDS INCLUDING TAXES ON INTEREST INCOME, REGISTRATION OF THE LOAN AGREEMENT AND FUNDS, TAX FEES TO RECORD MORTGAGE AND OTHER SECURITY INTERESTS, AND TAXES ASSOCIATED WITH FORECLOSURE AND JUDICIAL ACTIONS. OPIC HAS OBTAINED SUCH TAX EXEMPTIONS (SOMETIMES BASED ON PRE-EXISTING LAW, SOMETIMES BY SPECIAL NEGOTIATIONS) AS A UNITED STATES GOVERNMENT ORGANIZATION IN EVERY COUNTRY WHERE IT HAS OPERATED A DIF LOAN PROGRAM. MOREOVER, OPIC REQUIRES WHATEVER OFFICIAL ASSURANCES ARE POSSIBLE THAT SUFFICIENT FOREIGN EXCHANGE WILL BE MADE AVAILABLE TO SERVICE OPIC LOANS.

THE EMBASSY WOULD APPRECIATE THE MINISTRY'S INFORMING IT WHICH LAWS OF AFGHANISTAN PROVIDE FOR SOVEREIGN TAX IMMUNITY FOR FOREIGN GOVERNMENT ORGANIZATIONS OPERATING IN AFGHANISTAN. IN THE EVENT THAT PREEXISTING LAWS DO NOT AT PRESENT PROVIDE EXPLICIT EXEMPTION, THE EMBASSY WOULD APPRECIATE BEING ADVISED WHAT PROCEDURES TO FOLLOW TO OBTAIN THIS EXEMPTION FOR OPIC AS A UNITED STATES GOVERNMENT ORGANIZATION.

.... COMPLIMENTS"  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TAX LAW, TAX FREE, LOAN AGREEMENTS, DIPLOMATIC NOTES, GOVERNMENT MINISTRIES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 17 JUN 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** WorrelSW  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D740157-1164  
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**Line Count:** 144  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION OPIC  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Page Count:** 3  
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**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** KABUL 3115, STATE 106306  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** WorrelSW  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 13 AUG 2002  
**Review Event:**  
**Review Exemptions:** n/a  
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**Review Media Identifier:**  
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**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** OPIC REQUEST FOR TAX EXEMPTION  
**TAGS:** EFIN, AF, US, OPIC  
**To:** STATE  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005